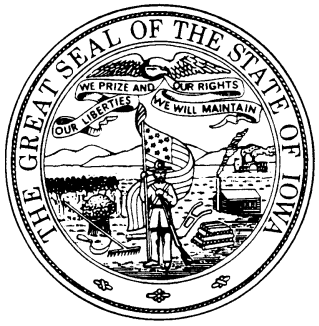
IOWA
COURT RULES

FIFTH EDITION

December 2022 Supplement



Published under the authority of Iowa Code section 2B.5B.

PREFACE

The Fifth Edition of the Iowa Court Rules was published in July 2009 pursuant to Iowa Code section 2B.5(2). Subsequent updates to the Iowa Court Rules, as ordered by the Supreme Court, are published in electronic format only and include chapters that have been amended or adopted.

The Iowa Court Rules and related documents are available at www.legis.iowa.gov/law/courtRules.

To receive e-mail notification of the publication of a Supplement to the Iowa Court Rules, subscribe at www.legis.iowa.gov/subscribe/subscriptions.

Inquiries. Inquiries regarding access to the Iowa Court Rules should be directed to the Legislative Services Agency's Computer Services Division Help Desk at 515.281.6506.

Citation. The rules shall be cited as follows:

Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 16	Iowa R. Elec. P.
Chapter 32	Iowa R. of Prof'l Conduct
Chapter 51	Iowa Code of Judicial Conduct

All other rules shall be cited as "Iowa Ct. R."

Supplements. Supplements to the Fifth Edition of the Iowa Court Rules have been issued as follows:

2009 — August, September, October, November, December
2010 — January, February, March, May, June, August, September, December
2011 — February
2012 — January, May, June, August, September, December
2013 — March, May, June, August, September, November, December
2014 — January, March, April, June, December
2015 — January, April, May, October, December
2016 — February, July, August, December
2017 — January, April, August, September, November, December
2018 — June, August, December
2019 — February, July, August, December
2020 — February, April, June, September, October, December
2021 — April, May, June, July, August, September, October, December
2022 — January, February, March, June, September, October, November

December 2022 Supplement

Changes in this supplement

Chapter 4 . . . . . Amended
Rule 5.404 . . . . . Amended
Rule 5.408 . . . . . Amended
Rule 5.412 . . . . . Amended
Rule 5.703 . . . . . Amended
Rule 5.706 . . . . . Amended
Rule 5.801 . . . . . Amended
Rules 5.803 and 5.804 . . . . . Amended
Rule 5.807 . . . . . Amended
Rules 5.901 and 5.902 . . . . . Amended
Rule 22.26 . . . . . Amended

INSTRUCTIONS FOR UPDATING THE IOWA COURT RULES

Replace Chapters 4 and 5
Replace Chapter 22

CHAPTER 4
PROTECTIVE AND NO CONTACT ORDERS

CHAPTER 4
PROTECTIVE AND NO CONTACT ORDERS

Rules 4.1 to **4.99** Reserved.

DIVISION I

Rule 4.100 Form orders for elder abuse protective orders. Iowa courts must use the following form civil protective orders, as the supreme court has approved, in actions under Iowa Code chapter 235F concerning elder abuse. Filed template orders may not display all form options available to the court.

Form 4.101	Temporary Protective Order—Elder Abuse (Iowa Code chapter 235F)
Form 4.102	Final Protective Order—Elder Abuse (Iowa Code chapter 235F)
Form 4.103	Cancellation, Modification, or Extension of Protective Order—Elder Abuse (Iowa Code chapter 235F)
Form 4.104	Order Appointing Guardian Ad Litem—Elder Abuse (Iowa Code chapter 235F)

[Court Order November 29, 2022, effective January 1, 2023]

Rules 4.101 to **4.199** Reserved.

DIVISION II

Rule 4.200 Form orders for domestic abuse civil protective orders. Iowa courts must use the following form civil protective orders, as the supreme court has approved, in actions under Iowa Code chapter 236 concerning domestic abuse. Filed template orders may not display all form options available to the court.

Form 4.201	Temporary Protective Order—Domestic Abuse (Iowa Code chapter 236)
Form 4.202	Final Protective Order—Domestic Abuse (Iowa Code chapter 236)
Form 4.203	Cancellation, Modification, or Extension of Protective Order—Domestic Abuse (Iowa Code chapter 236)
Form 4.204	Final Protective Order by Consent Agreement—Domestic Abuse

[Court Order November 29, 2022, effective January 1, 2023]

Rules 4.201 to **4.299** Reserved.

DIVISION III

Rule 4.300 Form orders for sexual abuse civil protective orders. Iowa courts must use the following form civil protective orders, as the supreme court has approved, in actions under Iowa Code chapter 236A. Filed template orders may not display all form options available to the court.

Form 4.301	Temporary Protective Order—Sexual Abuse (Iowa Code chapter 236A)
Form 4.302	Final Protective Order—Sexual Abuse (Iowa Code chapter 236A)
Form 4.303	Cancellation, Modification, or Extension of Protective Order—Sexual Abuse (Iowa Code chapter 236A)
Form 4.304	Final Protective Order by Consent Agreement—Sexual Abuse

[Court Order November 29, 2022, effective January 1, 2023]

Rules 4.301 to **4.399** Reserved.

DIVISION IV

Rule 4.400 Form orders for civil protective orders in dissolution actions. Iowa courts must use the following form civil protective orders, as the supreme court has approved, in actions under Iowa Code chapter 598. Filed template orders may not display all form options available to the court.

Form 4.401	Temporary Protective Order—Dissolution (Ex Parte) (Iowa Code chapter 598)
Form 4.402	Temporary Protective Order—Dissolution (Hearing) (Iowa Code chapter 598)
Form 4.403	Domestic Abuse Protective Order Accompanying Dissolution Decree (Iowa Code chapter 598)
Form 4.404	Cancellation, Modification, or Extension of Protective Order—Dissolution (Iowa Code chapter 598)

[Court Order November 29, 2022, effective January 1, 2023]

Rules 4.401 to **4.499** Reserved.

DIVISION V

Rule 4.500 Form orders for criminal no contact orders. Iowa courts must use the following form criminal no contact orders as the supreme court has approved. Filed template orders may not display all form options available to the court.

Form 4.501	Temporary No Contact Order and Order Setting Contempt Hearing (Iowa Code section 664A.7)
Form 4.502	Entry or Modification of No Contact Order (Iowa Code section 664A.5)
Form 4.503	Extension of No Contact Order (Iowa Code section 664A.8)
Form 4.504	Termination of No Contact Order
Form 4.505	Order to Show Cause—Violation of No Contact Order

[Court Order November 29, 2022, effective January 1, 2023]

Rules 4.501 to **4.599** Reserved.

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CHAPTER 5
RULES OF EVIDENCE

ARTICLE I
GENERAL PROVISIONS

Rule 5.101 Scope; definitions.

a. Scope. These rules apply to proceedings in the courts of this state to the extent and with the exceptions stated in rule 5.1101.

b. Definitions. In these rules:

(1) "Civil case" means a civil action or proceeding.

(2) "Criminal case" includes a criminal proceeding.

(3) "Public office" includes a public agency.

(4) "Record" includes a memorandum, report, or data compilation.

(5) "Other Iowa Supreme Court rule" means a rule the Iowa Supreme Court has adopted.

(6) A reference to any kind of written material or any other medium includes electronically stored information.

(7) "Victim" includes an alleged victim.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.102 Purpose. These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.103 Rulings on evidence.

a. Preserving a claim of error. A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and:

(1) If the ruling admits evidence, a party, on the record:

(A) Timely objects or moves to strike; and

(B) States the specific ground, unless it was apparent from the context; or

(2) If the ruling excludes evidence, a party informs the court of its substance by an offer of proof, unless the substance was apparent from the context.

b. Not needing to renew an objection or offer of proof. Once the court rules definitively on the record—either before or at trial—a party need not renew an objection or offer of proof to preserve a claim of error for appeal.

c. Court's statement about the ruling; directing an offer of proof. The court may make any statement about the character or form of the evidence, the objection made, and the ruling. The court may direct that an offer of proof be made in question-and-answer form.

d. Preventing the jury from hearing inadmissible evidence. To the extent practicable, the court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by any means.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.104 Preliminary questions.

a. In general. Subject to rule 5.104(*b*), the court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible. In so deciding, the court is not bound by evidence rules, except those on privilege.

b. Relevance that depends on a fact. When the relevance of evidence depends on whether a fact exists, proof must be introduced sufficient to support a finding that the fact does exist. The court may admit the proposed evidence on the condition that the proof be introduced later.

c. Conducting a hearing so that the jury cannot hear it. The court must conduct any hearing on a preliminary question so that the jury cannot hear it if:

(1) The hearing involves the admissibility of a confession;

(2) A defendant in a criminal case is a witness and so requests; or

(3) Justice so requires.

d. Cross-examining a defendant in a criminal case. By testifying on a preliminary question, a defendant in a criminal case does not become subject to cross-examination on other issues in the case. Testimony given by a defendant in a criminal case upon a preliminary question is not admissible against the defendant on the issue of guilt but may be used for impeachment if inconsistent with defendant's testimony at trial.

e. Evidence relevant to weight and credibility. This rule does not limit a party's right to introduce before the jury evidence that is relevant to the weight or credibility of other evidence.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.105 Limiting evidence that is not admissible against other parties or for other purposes. If the court admits evidence that is admissible against a party or for a purpose—but not against another party or for another purpose—the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.106 Remainder of related acts, declarations, conversations, writings, or recorded statements.

a. If a party introduces all or part of an act, declaration, conversation, writing, or recorded statement, an adverse party may require the introduction, at that time, of any other part or any other act, declaration, conversation, writing, or recorded statement that in fairness ought to be considered at the same time.

b. Upon an adverse party's request, the court may require the offering party to introduce at the same time with all or part of the act, declaration, conversation, writing, or recorded statement, any other part or any other act, declaration, conversation, writing, or recorded statement that is admissible under rule 5.106(*a*). Rule 5.106(*b*), however, does not limit the right of any party to develop further on cross-examination or in the party's case in chief matters admissible under rule 5.106(*a*).

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rules 5.107 to **5.200** Reserved.

ARTICLE II
JUDICIAL NOTICE

Rule 5.201 Judicial notice of adjudicative facts.

a. Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

b. Kinds of facts that may be judicially noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) Is generally known within the trial court's territorial jurisdiction; or

(2) Can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

c. Taking notice. The court:

(1) May take judicial notice on its own; or

(2) Must take judicial notice if a party requests it and the court is supplied with the necessary information.

d. Timing. The court may take judicial notice at any stage of the proceeding.

e. Opportunity to be heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

f. Instructing the jury. In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rules 5.202 to **5.300** Reserved.

ARTICLE III
PRESUMPTIONS IN CIVIL CASES

Rule 5.301 Presumptions in civil cases generally. These rules do not modify or supersede existing law relating to presumptions in civil cases.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rules 5.302 to **5.400** Reserved.

ARTICLE IV
RELEVANCE AND ITS LIMITS

Rule 5.401 Test for relevant evidence. Evidence is relevant if:

a. It has any tendency to make a fact more or less probable than it would be without the evidence; and

b. The fact is of consequence in determining the action.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.402 General admissibility of relevant evidence. Relevant evidence is admissible, unless any of the following provide otherwise: the United States Constitution or Iowa Constitution, statute, these rules, or other Iowa Supreme Court rule. Irrelevant evidence is not admissible.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.403 Excluding relevant evidence for prejudice, confusion, waste of time, or other reasons. The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.404 Character evidence; crimes or other acts.

a. Character evidence.

(1) *Prohibited uses.* Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

(2) *Exceptions for a defendant or victim in a criminal case.* The following exceptions apply in a criminal case:

(A) A defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it.

(B) Subject to the limitations in rule 5.412, a defendant may offer evidence of the victim's pertinent trait, and if the evidence is admitted, the prosecutor may:

(i) Offer evidence to rebut it; and

(ii) Offer evidence of the defendant's same trait.

(C) When the victim is unavailable to testify due to death or physical or mental incapacity, the prosecutor may offer evidence of the victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

(3) *Exceptions for a witness.* Evidence of a witness's character may be admitted under rules 5.607, 5.608, and 5.609.

b. Other crimes, wrongs, or acts.

(1) *Prohibited uses.* Evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted uses.* This evidence may be admissible for another purpose such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

(3) *Notice in a Criminal Case.* In a criminal case, the prosecutor must:

(A) Provide reasonable notice of any such evidence that the prosecutor intends to offer at trial, so

that the defendant has a fair opportunity to meet it;

(B) Articulate in the notice the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose; and

(C) Do so in writing before trial—or in any form during trial if the court, for good cause, excuses lack of pretrial notice.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rule 5.405 Methods of proving character.

a. By reputation or opinion. When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.

b. By specific instances of conduct. When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.406 Habit; routine practice. Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.407 Subsequent remedial measures. When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct. But the court may admit this evidence when offered on a manufacturing defect claim based on strict liability in tort, breach of warranty, or when offered for another purpose, such as impeachment or—if disputed—proving ownership, control, or feasibility of precautionary measures.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.408 Compromise offers and negotiations.

a. Prohibited uses. Evidence of the following is not admissible—on behalf of any party—either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

(1) Furnishing, promising, or offering—or accepting, promising to accept, or offering to accept—a valuable consideration in compromising or attempting to compromise the claim; and

(2) Conduct or a statement made during compromise negotiations about the claim.

b. Exceptions. The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rule 5.409 Payment of expenses. Evidence of furnishing, promising to pay, or offering to pay expenses resulting from an injury is not admissible to prove liability for the injury.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.410 Pleas, plea discussions, and related statements.

a. Prohibited uses. In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

(1) A guilty plea that was later withdrawn.

(2) A nolo contendere plea.

(3) A statement made during a proceeding on either of those pleas under Fed. R. Crim. P. 11, Iowa R. Crim. P. 2.10, or a comparable state procedure.

(4) A statement made during plea discussions with an attorney for the prosecuting authority if the discussions do not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

b. Exceptions. The court may admit a statement described in rule 5.410(*a*)(3) or (4):

(1) In any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together.

(2) In a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

[Report 1983; July 31, 1987, effective October 1, 1987; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.411 Liability insurance. Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or prejudice or proving agency, ownership, or control.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.412 Sex-offense cases: the victim's sexual behavior or predisposition.

a. Prohibited uses. The following evidence is not admissible in a civil or criminal proceeding involving alleged sexual misconduct:

(1) Evidence offered to prove that a victim engaged in other sexual behavior; or

(2) Evidence offered to prove a victim's sexual predisposition.

b. Exceptions.

(1) *Criminal cases.* The court may admit the following evidence in a criminal case:

(A) Evidence of specific instances of a victim's sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;

(B) Evidence of specific instances of a victim's sexual behavior with respect to the person accused of sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; and

(C) Evidence whose exclusion would violate the defendant's constitutional rights.

(2) *Civil cases.* In a civil case, the court may admit evidence offered to prove a victim's sexual behavior or sexual predisposition if its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. The court may admit evidence of a victim's reputation only if the victim has placed it in controversy.

c. Procedure to determine admissibility.

(1) *Motion.* If a party intends to offer evidence under rule 5.412(*b*), the party must:

(A) File a motion that specifically describes the evidence and states the purpose for which it is to be offered;

(B) Do so at least 14 days before trial unless the court, for good cause, sets a different time;

(C) Serve the motion on all parties; and

(D) Notify the victim or, when appropriate, the victim's guardian or representative.

(2) *Hearing.* Before admitting evidence under this rule, the court must conduct an in camera hearing and give the victim and parties a right to attend and be heard. Unless the court orders otherwise, the motion, related materials, and the record of the hearing must be and remain sealed.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rules 5.413 to **5.500** Reserved.

ARTICLE V
PRIVILEGES

Rule 5.501 Privilege in general. Nothing in these rules modifies or supersedes existing law governing a claim of privilege.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.502 Attorney-client privilege and work product; limitations on waiver. The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

a. Disclosure made in a court or agency proceeding; scope of a waiver. When the disclosure is made in a court or agency proceeding and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information only if:

(1) The waiver is intentional;

(2) The disclosed and undisclosed communications or information concern the same subject matter; and

(3) They ought in fairness to be considered together.

b. Inadvertent disclosure. When made in a court or agency proceeding, the disclosure does not operate as a waiver if:

(1) The disclosure is inadvertent;

(2) The holder of the privilege or protection took reasonable steps to prevent disclosure; and

(3) The holder promptly took reasonable steps to rectify the error, including (if applicable) following Iowa Rule of Civil Procedure 1.503(5)(*b*).

c. Disclosure made in a federal or state proceeding. When a disclosure is made in a federal or state proceeding and is not the subject of a federal or state court order concerning waiver, the disclosure does not operate as a waiver in an Iowa proceeding if the disclosure:

(1) Would not be a waiver under this rule if it had been made in an Iowa proceeding; or

(2) Is not a waiver under the law of the jurisdiction where the disclosure occurred.

d. Controlling effect of a court order. A court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court—in which event the disclosure is also not a waiver in any other proceeding.

e. Controlling effect of a party agreement. An agreement on the effect of disclosure in a state proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

f. Controlling effect of this rule. Notwithstanding rules 5.101 and 5.1101, this rule applies to all proceedings in the circumstances set out in the rule.

g. Definitions. In this rule:

(1) "Attorney-client privilege" means the protection that applicable law provides for confidential attorney-client communications.

(2) "Work-product protection" means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.

[Report April 2, 2009; effective June 1, 2009; September 28, 2016, effective January 1, 2017]

Rules 5.503 to **5.600** Reserved.

ARTICLE VI
WITNESSES

Rule 5.601 Competency to testify in general. Every person is competent to be a witness unless a statute or rule provides otherwise.

[Report 1983; 1985 Iowa Acts, ch 174, §16; 1990 Iowa Acts, ch 1015; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.602 Need for personal knowledge. A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under rule 5.703.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.603 Oath or affirmation to testify truthfully. Before testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness's conscience.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.604 Interpreter. An interpreter must be qualified under Iowa Court Rules chapter 47 and must give an oath or affirmation to interpret accurately during the proceeding to the best of the interpreter's ability.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.605 Judge's competency as a witness. The presiding judge may not testify as a witness at the trial. A party need not object to preserve the issue.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.606 Juror's competency as a witness.

a. At the trial. A juror may not testify as a witness before the other jurors at the trial. If a juror is called to testify, the court must give a party an opportunity to object outside the jury's presence.

b. During an inquiry into the validity of a verdict or indictment.

(1) *Prohibited testimony or other evidence.* During an inquiry into the validity of a verdict or indictment, a juror may not testify about any statement made or incident that occurred during the jury's deliberations; the effect of anything upon that juror's or another juror's vote; or any juror's mental processes concerning the verdict or indictment. The court may not receive a juror's affidavit or evidence of a juror's statement on these matters.

(2) *Exceptions.* A juror may testify about whether:

(A) Extraneous prejudicial information was improperly brought to the jury's attention.

(B) An outside influence was improperly brought to bear on any juror.

(C) A mistake was made in entering the verdict on the verdict form.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.607 Who may impeach a witness. Any party, including the party that called the witness, may attack the witness's credibility.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.608 Witness's character for truthfulness or untruthfulness.

a. Reputation or opinion evidence. A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

b. Specific instances of conduct. Except for a criminal conviction under rule 5.609, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:

(1) The witness; or

(2) Another witness whose character the witness being cross-examined has testified about.

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.609 Impeachment by evidence of a criminal conviction.

a. In general. The following apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(1) For a crime that in the convicting jurisdiction was punishable by death or by imprisonment for more than one year, the evidence:

(A) Must be admitted, subject to rule 5.403, in a civil case or in a criminal case in which the witness is not a defendant.

(B) Must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant.

(2) For any crime regardless of the punishment, the evidence must be admitted if the crime involved dishonesty or false statement.

b. Limit on using the evidence after ten years. This subdivision (*b*) applies if more than ten years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if:

(1) Its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect; and

(2) The proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

c. Effect of pardon, annulment, or certificate of rehabilitation. Evidence of a conviction is not admissible if:

(1) The conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or

(2) The conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

d. Juvenile adjudications. Evidence of a juvenile adjudication is admissible under this rule only if:

(1) It is offered in a criminal case;

(2) The adjudication was of a witness other than the defendant;

(3) An adult's conviction for that offense would be admissible to attack the adult's credibility; and

(4) Admitting the evidence is necessary to fairly determine guilt or innocence.

e. Pendency of an appeal. A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency of the appeal is also admissible.

[Report 1983; Court Order December 7, 1995, effective March 1, 1996; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.610 Religious beliefs or opinions. Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.611 Mode and order of examining witnesses and presenting evidence.

a. Control by the court; purposes. The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

(1) Make those procedures effective for determining the truth.

(2) Avoid wasting time.

(3) Protect witnesses from harassment or undue embarrassment.

b. Scope of cross-examination. Cross-examination should not go beyond the subject matter of the direct examination and matters affecting the witness's credibility. The court may allow inquiry into additional matters as if on direct examination.

c. Leading questions. Leading questions should not be used on direct examination except as necessary to develop the witness's testimony. Ordinarily the court should allow leading questions:

(1) On cross-examination; and

(2) When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

[Report 1983; amended February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.612 Writing used to refresh a witness's memory.

a. Scope. This rule gives an adverse party certain options when a witness uses a writing to refresh memory:

(1) While testifying; or

(2) Before testifying, if the court decides that justice requires the party to have those options.

b. Adverse party's options; deleting unrelated matter. Unless Iowa Rule of Criminal Procedure 2.14 provides otherwise in a criminal case, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce into evidence any

portion that relates to the witness's testimony. If the producing party claims that the writing contains unrelated matter, the court must examine the writing in camera, delete any unrelated portion, and order that the rest be delivered to the adverse party. Any portion deleted over objection must be preserved for the record.

c. Failure to produce or deliver the writing. If a writing is not produced or is not delivered as ordered, the court may issue any appropriate order. But if the prosecution does not comply in a criminal case, the court must strike the witness's testimony or—if justice so requires—declare a mistrial.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.613 Witness's prior statement.

a. Showing or disclosing the statement during examination. When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.

b. Extrinsic evidence of a prior inconsistent statement. Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (*b*) does not apply to an opposing party's statement under rule 5.801(*d*)(2).

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.614 Court's calling or examining a witness.

a. Calling. For good cause in exceptional cases, the court may call a witness on its own or at a party's request. Each party is entitled to cross-examine the witness.

b. Examining. When necessary, the court may examine a witness regardless of who calls the witness.

c. Objections. A party may object to the court's calling or examining a witness either at that time or at the next opportunity when the jury is not present.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.615 Excluding witnesses. At a party's request the court may order witnesses excluded so that they cannot hear other witness's testimony. Or the court may do so on its own. But this rule does not authorize excluding:

a. A party who is a natural person.

b. An officer or employee of a party that is not a natural person, after being designated as the party's representative by its attorney.

c. A person whose presence a party shows to be essential to presenting the party's claim or defense.

d. A person authorized by statute to be present.

[Report 1983; November 9, 2001, effective February 15, 2002; April 2, 2009, effective June 1, 2009; September 28, 2016, effective January 1, 2017]

Rules 5.616 to **5.700** Reserved.

ARTICLE VII
OPINIONS AND EXPERT TESTIMONY

Rule 5.701 Opinion testimony by lay witnesses. If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

a. Rationally based on the witness's perception;

b. Helpful to clearly understanding the witness's testimony or to determining a fact in issue; and

c. Not based on scientific, technical, or other specialized knowledge within the scope of rule 5.702.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.702 Testimony by expert witnesses. A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the

expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.703 Bases of an expert's opinion testimony. An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rule 5.704 Opinion on an ultimate issue. An opinion is not objectionable just because it embraces an ultimate issue.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.705 Disclosing the facts or data underlying an expert's opinion. Unless the court orders otherwise, an expert may state an opinion—and give the reasons for it—without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.706 Court-appointed expert witnesses.

a. Appointment process. On a party's motion or on its own, the court may order the parties to show cause why expert witnesses should not be appointed and may ask the parties to submit nominations. The court may appoint any expert that the parties agree on and any of its own choosing. But the court may only appoint someone who consents to act.

b. Expert's role. The court must inform the expert of the expert's duties. The court may do so in writing and have a copy filed with the clerk or may do so orally at a conference in which the parties have an opportunity to participate. The expert:

(1) Must advise the parties of any findings the expert makes.
(2) May be deposed by any party.
(3) May be called to testify by the court or any party.
(4) May be cross-examined by any party, including the party that called the expert.

c. Compensation. The expert is entitled to a reasonable compensation as set by the court. Except as otherwise provided by law, the compensation must be paid by the parties in the proportion and at the time that the court directs, and the compensation is then charged like other costs.

d. Disclosing the appointment to the jury. The court may authorize disclosure to the jury that the court appointed the expert.

e. Parties' choice of their own experts. Rule 5.706 does not limit a party in calling its own experts.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rules 5.707 to **5.800** Reserved.

ARTICLE VIII
HEARSAY

Rule 5.801 Definitions that apply to this Article; exclusions from hearsay.

a. Statement. "Statement" means a person's:

(1) Oral assertion or written assertion; or
(2) Nonverbal conduct, if intended as an assertion.

b. Declarant. "Declarant" means the person who made the statement.

c. Hearsay. "Hearsay" means a statement that:

(1) The declarant does not make while testifying at the current trial or hearing; and

(2) A party offers into evidence to prove the truth of the matter asserted in the statement.

d. Statements that are not hearsay. A statement that meets the following conditions is not hearsay:

(1) *A declarant-witness's prior statement.* The declarant testifies and is subject to cross-examination about a prior statement, and the statement:

(A) Is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;

(B) Is consistent with the declarant's testimony and is offered to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

(C) Identifies a person as someone the declarant perceived earlier.

(2) *An opposing party's statement.* The statement is offered against an opposing party and:

(A) Was made by the party in an individual or representative capacity;

(B) Is one the party manifested that it adopted or believed to be true;

(C) Was made by a person whom the party authorized to make a statement on the subject;

(D) Was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or

(E) Was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant's authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rule 5.802 The rule against hearsay. Hearsay is not admissible unless any of the following provide otherwise: the Constitution of the State of Iowa; a statute; these rules of evidence; or an Iowa Supreme Court rule.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.803 Exceptions to the rule against hearsay—regardless of whether the declarant is available as a witness. The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(1) *Present sense impression.* A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) *Excited utterance.* A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) *Then existing mental, emotional, or physical condition.* A statement of the declarant's then existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) *Statement made for medical diagnosis or treatment.* A statement that:

(A) Is made for—and is reasonably pertinent to—medical diagnosis or treatment; and

(B) Describes medical history, past or present symptoms or sensations, or the inception or general cause of symptoms or sensations.

(5) *Recorded recollection.* A record that:

(A) Is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;

(B) Was made or adopted by the witness when the matter was fresh in the witness's memory; and

(C) Accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence, but it may be received as an exhibit only if offered by an adverse party.

(6) *Records of a regularly conducted activity.* A record of an act, event, condition, opinion, or diagnosis if:

(A) The record was made at or near the time by—or from information transmitted by—someone with knowledge;

(B) The record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) Making the record was a regular practice of that activity;

(D) All these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with rule 5.902(11) or rule 5.902(12) or with a statute permitting certification; and

(E) The opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

(7) *Absence of a record of regularly conducted activity.* Evidence that a matter is not included in a record described in rule 5.803(6) if:

(A) The evidence is admitted to prove that the matter did not occur or exist;

(B) A record was regularly kept for a matter of that kind; and

(C) The opponent does not show that the possible source of the information or other circumstances indicate a lack of trustworthiness.

(8) *Public records.*

(A) To the extent not otherwise provided in rule 5.803(8)(B), a record or statement of a public office or agency if it sets out:

(i) Its regularly conducted and regularly recorded activities;

(ii) Matters observed while under a legal duty to report; or

(iii) Factual findings from a legally authorized investigation.

Rule 5.803(8)(A) does not apply if the opponent shows that the source of the information or other circumstances indicate a lack of trustworthiness.

(B) The following are not within this public records exception to the hearsay rule:

(i) Investigative reports by police and other law enforcement personnel.

(ii) Investigative reports prepared by or for a government, a public office, or an agency when offered by it in a case in which it is a party.

(iii) Factual findings offered by the state or a political subdivision in criminal cases.

(iv) Factual findings resulting from special investigation of a particular complaint, case, or incident.

Rule 5.803(8)(B) does not supersede specific statutory provisions regarding the admissibility of particular public records and reports.

(9) *Public records of vital statistics.* A record of a birth, fetal death, adoption, death, marriage, divorce, dissolution, or annulment, if reported to a public office in accordance with a legal duty.

(10) *Absence of a public record.* Testimony—or a certification under rule 5.902—that a diligent search failed to disclose a public record or statement if:

(A) The testimony or certification is admitted to prove that:

(i) The record or statement does not exist; or

(ii) A matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind, and

(B) In a criminal case, a prosecutor who intends to offer a certification provides written notice of that intent at least 14 days before trial, and the defendant does not object in writing within 7 days of receiving the notice—unless the court sets a different time for the notice or the objection.

(11) *Records of religious organizations concerning personal or family history.* A statement of birth, legitimacy, ancestry, marriage, divorce, death, relationship by blood or marriage, or similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) *Certificates of marriage, baptism, and similar ceremonies.* A statement of fact contained in a certificate:

(A) Made by a person who is authorized by a religious organization or by law to perform the act certified;

(B) Attesting that the person performed a marriage or similar ceremony or administered a sacrament; and

(C) Purporting to have been issued at the time of the act or within a reasonable time after it.

(13) *Family records.* A statement of fact about personal or family history contained in a family record, such as a Bible, genealogy, chart, engraving on a ring, inscription on a portrait, or engraving on an urn or burial marker.

(14) *Records of documents that affect an interest in property.* The record of a document that purports to establish or affect an interest in property if:

(A) The record is admitted to prove the content of the original recorded document, along with its signing and its delivery by each person who purports to have signed it;

(B) The record is kept in a public office; and

(C) A statute authorizes recording documents of that kind in that office.

(15) *Statements in documents that affect an interest in property.* A statement contained in a document that purports to establish or affect an interest in property if the matter stated was relevant to the document's purpose—unless later dealings with the property are inconsistent with the truth of the statement or the purport of the document.

(16) *Statements in ancient documents.* A statement in a document that was prepared before January 1, 1998, and whose authenticity is established.

(17) *Market reports and similar commercial publications.* Market quotations, lists, directories, or other compilations that are generally relied on by the public or by persons in particular occupations.

(18) *Statements in learned treatises, periodicals, or pamphlets.* A statement contained in a treatise, periodical, or pamphlet if:

(A) The statement is called to the attention of an expert witness upon cross-examination or relied on by the expert on direct examination; and

(B) The publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.

If admitted, the statement may be read into evidence but not received as an exhibit.

(19) *Reputation concerning personal or family history.* A reputation among a person's family by blood, adoption, or marriage—or among a person's associates or in the community—concerning the person's birth, adoption, legitimacy, ancestry, marriage, divorce, death, relationship by blood, adoption, or marriage, or similar facts of personal or family history.

(20) *Reputation concerning boundaries or general history.* A reputation in a community—arising before the controversy—concerning boundaries of land in the community or customs that affect the land, or concerning general historical events important to that community, state, or nation.

(21) *Reputation concerning character.* A reputation among a person's associates or in the community concerning the person's character.

(22) *Judgment of a previous conviction.* Evidence of a final judgment of conviction if:

(A) The judgment was entered after a trial or guilty plea, but not a nolo contendere plea;

(B) The conviction was for a crime punishable by death or by imprisonment for more than a year;

(C) The evidence is admitted to prove any fact essential to the judgment; and

(D) When offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.

The pendency of an appeal of a previous conviction may be shown but does not affect admissibility.

(23) *Judgments involving personal, family, or general history, or a boundary.* A judgment that is admitted to prove a matter of personal, family, or general history, or boundaries, if the matter:

(A) Was essential to the judgment; and

(B) Could be proved by evidence of reputation.

(24) [Transferred to rule 5.807.]

[Report 1983; amended February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; March 25, 2009, effective May 25, 2009; April 2, 2009, effective June 1, 2009; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rule 5.804 Exceptions to the rule against hearsay—when the declarant is unavailable as a witness.

a. Criteria for being unavailable. A declarant is considered to be unavailable as a witness if the declarant:

(1) Is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;

(2) Refuses to testify about the subject matter despite a court order to do so;

(3) Testifies to not remembering the subject matter;

(4) Cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or

(5) Is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure the declarant's attendance.

But rule 5.804(*a*) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

b. The exceptions. The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(1) *Former testimony.* Testimony that:

(A) Was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and

(B) Is now offered against a party who had—or, in a civil case, whose predecessor in interest had—an opportunity and similar motive to develop it by direct, cross-, or redirect examination.

(2) *Statement under the belief of imminent death.* A statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

(3) *Statement against interest.* A statement that:

(A) A reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and

(B) Is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.

(4) *Statement of personal or family history.* A statement about:

(A) The declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or

(B) Another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage, or was so intimately associated with the person's family that the declarant's information is likely to be accurate.

(5) [Transferred to rule 5.807.]

(6) *Statement offered against a party that wrongfully caused the declarant's unavailability.* A statement offered against a party that wrongfully caused—or acquiesced in wrongfully causing—the declarant's unavailability as a witness, and did so intending that result.

[Report 1983; November 9, 2001, effective February 15, 2002; April 2, 2009, effective June 1, 2009; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rule 5.805 Hearsay within hearsay. Hearsay within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.806 Attacking and supporting the declarant's credibility. When a hearsay statement—or a statement described in rule 5.801(*d*)(2)(C), (D), or (E)—has been admitted into evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.807 Residual exception.

a. In general. Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in rule 5.803 or 5.804:

(1) The statement is supported by sufficient guarantees of trustworthiness—after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and

(2) It is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.

b. Notice. The statement is admissible only if the proponent gives an adverse party reasonable notice of the intent to offer the statement—including its substance and the declarant's name—so that the party has a fair opportunity to meet it. The notice must be provided in writing before the trial

or hearing—or in any form during the trial or hearing if the court, for good cause, excuses a lack of earlier notice.
[Report April 2, 2009, effective June 1, 2009; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rules 5.808 to **5.900** Reserved.

ARTICLE IX
AUTHENTICATION AND IDENTIFICATION

Rule 5.901 Authenticating or identifying evidence.

a. In general. To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

b. Examples. The following are examples only—not a complete list—of evidence that satisfies the requirement:

(1) *Testimony of witness with knowledge.* Testimony that an item is what it is claimed to be.

(2) *Nonexpert opinion about handwriting.* A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) *Comparison by an expert witness or the trier of fact.* A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) *Distinctive characteristics and the like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) *Opinion about a voice.* An opinion identifying a person's voice—whether heard firsthand or through mechanical or electronic transmission or recording—based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) *Evidence about a telephone conversation.* For a telephone conversation, evidence that a call was made to the number assigned at the time to:

(A) A particular person, if circumstances, including self-identification, show that the person answering was the one called; or

(B) A particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) *Evidence about public records.* Evidence that:

(A) A document was recorded or filed in a public office as authorized by law; or

(B) A purported public record or statement is from the office where items of this kind are kept.

(8) *Evidence about ancient documents or data compilations.* For a document or data compilation, evidence that it:

(A) Is in a condition that creates no suspicion about its authenticity;

(B) Was in a place where, if authentic, it would likely be; and

(C) Is at least 20 years old when offered.

(9) *Evidence about a process or system.* Evidence describing a process or system and showing that it produces an accurate result.

(10) *Methods provided by a statute or rule.* Any method of authentication or identification allowed by a statute or Iowa Supreme Court rule.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rule 5.902 Evidence that is self-authenticating. The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity to be admitted:

(1) *Domestic public documents that are sealed and signed.* A document that bears:

(A) A seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

(B) A signature purporting to be an execution or attestation.

(2) *Domestic public documents that are not sealed but are signed and certified.* A document that bears no seal if:

(A) It bears the signature of an officer or employee of an entity named in rule 5.902(1)(A); and

(B) Another public officer who has a seal and official duties within that same entity certifies under seal—or its equivalent—that the signer has the official capacity and that the signature is genuine.

(3) *Foreign public documents.* A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so. The document must be accompanied by a final certification that certifies the genuineness of the signature and official position of the signer or attestor—or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in a chain of certificates of genuineness relating to the signature or attestation. The certification may be made by a secretary of a United States embassy or legation; by a consul general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the document's authenticity and accuracy, the court may, for good cause, either:

(A) Order that it be treated as presumptively authentic without final certification; or

(B) Allow it to be evidenced by an attested summary with or without final certification.

(4) *Certified copies of public records.* A copy of an official record—or a copy of a document that was recorded or filed in a public office as authorized by law—if the copy is certified as correct by:

(A) The custodian or another person authorized to make the certification; or

(B) A certificate that complies with rule 5.902(1), (2), or (3), a federal, state, or territorial statute, United States Supreme Court rule, or Iowa Supreme Court rule.

(5) *Official publications.* A book, pamphlet, or other publication purporting to be issued by public authority.

(6) *Newspapers and periodicals.* Printed materials purporting to be a newspaper or periodical.

(7) *Trade inscriptions and the like.* An inscription, sign, tag, or label purporting to have been affixed in the course of business and indicating origin, ownership, or control.

(8) *Acknowledged documents.* A document accompanied by a certificate of acknowledgement that is lawfully executed by a notary public or another officer who is authorized to take acknowledgements.

(9) *Commercial paper and related documents.* Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.

(10) *Presumptions under a federal statute or a statute of Iowa or any other state or territory of the United States.* A signature, document, or anything else that a federal statute or a statute of Iowa or any other state or territory of the United States declares to be presumptively or prima facie genuine or authentic.

(11) *Certified domestic records of a regularly conducted activity.* The original or a copy of a domestic record that meets the requirements of rule 5.803(6)(A) to (C) as shown by a certification of the custodian or another qualified person that complies with a federal statute, a rule prescribed by the United States Supreme Court, a statute of Iowa or any other state or territory of the United States, or other Iowa Supreme Court rule. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record—and must make the record and certification available for inspection—so that the party has a fair opportunity to challenge them.

(12) *Certified foreign records of a regularly conducted activity.* In a civil case, the original or a copy of a foreign record that meets the requirements of rule 5.902(11), modified as follows: the certification, rather than complying with a federal statute or a United States Supreme Court rule or a statute of Iowa or any other state or territory of the United States or other Iowa Supreme Court rule, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of rule 5.902(11).

(13) *Certified records generated by an electronic process or system.* A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of rule 5.902(11) or (12). The proponent must also meet the notice requirements of rule 5.902(11).

(14) *Certified data copied from an electronic device, storage medium, or file.* Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of rule 5.902(11) or (12). The proponent also must meet the notice requirements of rule 5.902(11).

[Report 1983; November 9, 2001, effective February 15, 2002; March 25, 2009, effective May 25, 2009; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

Rule 5.903 Subscribing witness's testimony. A subscribing witness's testimony is necessary to authenticate a writing only if required by the law of the jurisdiction that governs its validity. This rule does not affect the admission of a foreign will into probate in this state.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rules 5.904 to **5.1000** Reserved.

ARTICLE X
CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 5.1001 Definitions that apply to this article. In this article:

a. A "writing" consists of letters, words, numbers, or their equivalent set down in any form.

b. A "recording" consists of letters, words, numbers, or their equivalent recorded in any manner.

c. A "photograph" means a photographic image or its equivalent stored in any form.

d. An "original" of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, "original" means any printout—or other output readable by sight—if it accurately reflects the information. An "original" of a photograph includes the negative or a print from it.

e.. A "duplicate" means a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.1002 Requirement of the original. An original writing, recording, or photograph is required to prove its content, unless these rules or a statute provides otherwise.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.1003 Admissibility of duplicates. A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.1004 Admissibility of other evidence of content. An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if:

a. All the originals are lost or destroyed, and not be the proponent acting in bad faith;

b. An original cannot be obtained by any available judicial process;

c. The party against whom the original would be offered had control of the original; was at that time put on notice, by pleadings or otherwise, that the original would be a subject of proof at the trial or hearing; and fails to produce it at the trial or hearing; or

d. The writing, recording, or photograph is not closely related to a controlling issue.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.1005 Copies of public records to prove content.

a. Using a copy to prove content. The proponent may use a copy to prove the content of an official record—or of a document that was recorded or filed in a public office as authorized by law—if these conditions are met:

(1) The record or document is otherwise admissible.

(2) The copy is certified as correct in accordance with rule 5.902(4) or a witness who has compared it with the original testifies the copy is correct.

b. Using other evidence to prove content. If no such copy can be obtained by reasonable diligence, then the proponent may use other evidence to prove the content.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.1006 Summaries to prove content. The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court. The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at reasonable time and place. And the court may order the proponent to produce them in court.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.1007 Testimony or statement of a party to prove content. The proponent may prove the content of a writing, recording, or photograph by the testimony, deposition, or written statement of the party against whom the evidence is offered. The proponent need not account for the original.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rule 5.1008 Functions of the court and jury. Ordinarily, the court determines whether the proponent has fulfilled the factual conditions for admitting other evidence of the content of a writing, recording, or photograph under rule 5.1004 or 5.1005. But in a jury trial, the jury determines—in accordance with rule 5.104(*b*)—any issue about whether:

a. An asserted writing, recording, or photograph ever existed; or

b. Another one produced at the trial or hearing is the original; or

c. Other evidence of content accurately reflects the content.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

Rules 5.1009 to **5.1100** Reserved.

ARTICLE XI
MISCELLANEOUS RULES

Rule 5.1101 Applicability of the rules.

a. To courts and judges. The Iowa Rules of Evidence apply to proceedings before the courts of this state, including proceedings before magistrates and court-appointed referees and masters, except as Iowa Supreme Court rules otherwise provide.

b. Rules on privilege. The rules on privilege apply to all stages of a case or proceeding.

c. Exceptions. The Iowa Rules of Evidence—except for those on privilege—do not apply to the following:

(1) The court's determination, under rule 5.104(*a*), on a preliminary question of fact governing admissibility.

(2) Grand-jury proceedings.

(3) Contempt proceedings in which an adjudication is made without prior notice and a hearing.

(4) Miscellaneous proceedings such as: extradition or rendition; issuing an arrest warrant, criminal summons, or search warrant; a preliminary examination in a criminal case; sentencing; granting or revoking probation or supervised release; and considering whether to release on bail or otherwise.
[Report 1983; November 9, 2001, effective February 15, 2002; March 25, 2009, effective May 25, 2009; September 28, 2016, effective January 1, 2017]

Rule 5.1102 Reserved.

Rule 5.1103 Title. These Iowa Rules of Evidence may be cited as Iowa R. Evid.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

CHAPTER 22
JUDICIAL ADMINISTRATION

CHAPTER 22
JUDICIAL ADMINISTRATION

Rule 22.1 Supervision of courts. The supreme court, by and through the chief justice, shall exercise supervisory and administrative control over all trial courts in the state, and over the judges and other personnel thereof, including but not limited to authority to make and issue any order a chief judge may make under rule 22.5, or to modify, amend or revoke any such order or court schedule.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

Rule 22.2 Recall and transfer of judges. The supreme court by and through the chief justice may at any time order the recall of eligible retired judges for active service, and the transfer of active judges and other court personnel from one judicial district to another to provide a sufficient number of judges to handle the judicial business in all districts promptly and efficiently.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

Rule 22.3 Selection of chief judges. Not later than December 15 in each odd-numbered year the chief justice, with the approval of the supreme court, shall appoint from the district judges of each district one of their number to serve as chief judge. The judge so appointed shall serve for a two-year term and shall be eligible for reappointment. Vacancies in the office of chief judge shall be filled in the same manner within 30 days after the vacancy occurs. During any period of vacancy the judge of longest service in the district shall be the acting chief judge.
[Report 1969; Court Order October 31, 1997, effective January 24, 1998; October 27, 1999, effective January 3, 2000; November 9, 2001, effective February 15, 2002]

Rule 22.4 Order appointing chief judge. An order appointing a chief judge shall be filed with the clerk of the supreme court who shall mail a copy to the clerk of the district court in each county in the judicial district. The clerk of the supreme court may mail the copies of the order electronically.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002; April 11, 2007]

Rule 22.5 Duties and powers of chief judges. In addition to their ordinary judicial duties, chief judges shall exercise continuing administrative supervision within their respective districts over all district courts, judges, magistrates, officials and employees thereof for the purposes stated in Iowa R. Civ. P. 1.1807. They shall by order fix times and places of holding court and designate the respective presiding judges and magistrates; they shall supervise and direct the performance of all administrative business of their district courts; they may conduct judicial conferences of their district judges, district associate judges, and magistrates to consider, study and plan for improvement of the administration of justice; and may make such administrative orders as necessary. No chief judge shall at any time direct or influence any judge or magistrate in any ruling or decision in any proceeding or matter whatsoever.

The chief judge of a judicial district may appoint from the other district judges an assistant or assistants to serve on a judicial district-wide basis and at the chief judge's pleasure. When so acting, such an assistant shall have those powers and duties given to the chief judge by statute or rule of court which are specified in the order of appointment. Such appointment shall by general order be made a matter of record in each county in the judicial district.
[Report 1969; amendment 1972; amendment 1979; Court Order October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 22.6 Court and trial sessions. Chief judges shall by order provide for the following:

22.6(1) A court session by a district judge at least once each week in each county of the district, announced in advance in the form of a written schedule, unless a different schedule is approved by the supreme court.

22.6(2) Additional sessions in each county for the trial of cases, and other judicial matters, of such duration and frequency as will best serve to expeditiously dispose of pending cases ready for trial, and other pending judicial matters.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

Rule 22.7 Case assignment. The chief judge may assign and monitor cases within the district and may delegate this authority to the district court administrator by general supervisory order or on

a case-by-case basis. District judges, district associate judges, associate juvenile judges, associate probate judges, and magistrates shall attend to any matter within their statutory jurisdiction assigned to them by the chief judge.
[Court Order May 30, 1986; February 14, 1996; July 26, 1996; November 9, 2001, effective February 15, 2002]

Rule 22.8 Judicial district scheduling.

22.8(1) The chief judge of each judicial district shall by annual written order set the times and places of holding court within the judicial district and designate the respective presiding judges. The order shall provide for a court session at least once a week in each county of the judicial district, unless otherwise approved by the supreme court. The order shall provide for a scheduled trial session in each county of the judicial district at least four times each year, to be presided over by a different judge. In determining the schedule ordered, the chief judge shall rotate trial judges without regard to judicial election district lines to facilitate the administration of justice, integrate the district bench and promote the ideal of district administration.

22.8(2) An order of the chief judge demonstrating compliance with this rule for the next calendar year shall be filed by October 15 of the preceding calendar year with the clerk of the supreme court. Following supreme court approval, the chief judge shall file a copy of the order with the clerk of the district court in each county of the respective judicial district.
[Court Order October 15, 1985; November 9, 2001, effective February 15, 2002]

Rule 22.9 Change of venue to another judicial district.

22.9(1) *Definitions.* As used in this rule:

a. "Receiving county" means the county to which a change of venue is ordered.

b. "Sending county" means the county from which a change of venue is ordered.

22.9(2) *Communication prior to ordering a change of venue.* Before ordering a change of venue to another judicial district for trial, a judge shall communicate with the office of the chief judge of the judicial district in which the intended receiving county is located. The judge shall determine from inquiry of the chief judge or the chief judge's designee the availability of a courtroom, a jury panel if required, and any necessary court personnel in the receiving county. Subject to the approval of the chief justice, the judicial district in which the sending county is located shall provide the trial judge and court reporter for the transferred proceeding.

22.9(3) *Transmission of copies of order changing venue.* Copies of an order changing venue shall be promptly transmitted to all of the following:

a. The chief judge of the judicial district in which the receiving county is located.

b. The court administrator for the judicial district in which the receiving county is located.

c. The clerk of the district court for the receiving county.

d. The state court administrator, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319.

e. Any other persons required by law to receive copies of such an order.

22.9(4) *Action brought in wrong county.* This rule does not apply where the action was brought in the wrong county.
[Court Order October 20, 1981; November 9, 2001, effective February 15, 2002; April 9, 2003]
See also rule 2.11 and rule 2.65.

Rule 22.10 Judges — monthly report.

22.10(1) Each senior judge, district judge, district associate judge, full-time associate juvenile judge, full-time associate probate judge, and judicial magistrate shall report monthly to the supreme court, through the office of the state court administrator, all matters taken under advisement in any case for longer than 60 days, together with an explanation of the reasons for the delay and an expected date of decision. If no matters have been taken under advisement over 60 days, the report shall state "none." Senior judges need only file reports for those months during which they perform judicial duties or have matters under advisement.

22.10(2) Any submission shall be reported when all hearings have been completed and the matter awaits decision without further appearance of the parties or their attorney. A matter shall be deemed submitted even though briefs or transcripts have been ordered but have not yet been filed.

22.10(3) The report shall be due on the tenth day of each calendar month for the period ending with the last day of the preceding calendar month. The report shall be signed by the judge or magistrate and submitted on a form prescribed by the state court administrator.

22.10(4) A judge who is reporting a matter or matters taken under advisement for longer than 60 days shall send to the district court administrator a copy of the report forwarded to the state court administrator. The chief judge of the district shall review the copies filed in the district court administrator's office and take such action as shall be appropriate. A chief judge may elect whether to report any action taken to the supreme court. A district chief judge reporting such matters to the supreme court shall forward a copy to the liaison justice for the chief judge's judicial district.

22.10(5) The state court administrator shall promptly cause all reports received to be filed in the office of the clerk of the supreme court as records available for public inspection.

[Court Order December 15, 1977; February 20, 1981; July 16, 1984 — received for publication October 25, 1984; June 28, 1985, effective July 1, 1985; July 26, 1996; November 9, 2001, effective February 15, 2002]

Rule 22.11 Practice of law by judges.

22.11(1) A newly appointed full-time associate juvenile judge, full-time associate probate judge, district associate judge, district judge, court of appeals judge, or supreme court justice (hereinafter, judge) may have 30 days from the date of qualifying for office pursuant to Iowa Code section 63.6, or until the vacancy in the office actually occurs, whichever is later, in which to terminate any private law practice before assuming judicial duties. No newly appointed judge shall be placed on the state payroll or assume judicial duties until such private practice is concluded.

22.11(2) In terminating a law practice, the newly appointed judge shall undertake no new matters, shall conclude those matters which can be completed within the time provided in rule 22.11(1) and shall transfer those matters which cannot be so concluded or which require trial. While in the process of terminating a private practice, the newly appointed judge shall keep court appearances to a minimum.

22.11(3) Upon good cause shown, the supreme court may extend the time in which a newly appointed judge shall comply with this rule.

22.11(4) After assuming judicial duties and being placed on the payroll, a judge shall not engage in the practice of law. The practice of law includes but is not limited to the examination of abstracts, consummation of real estate transactions, preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns.

[Court Order April 29, 1980; June 28, 1985, effective July 1, 1985; July 26, 1996; December 17, 1996, effective January 2, 1997; November 9, 2001, effective February 15, 2002; April 4, 2002]

Rule 22.12 Senior judges.

22.12(1) The supreme court will accept applications from judges for the senior judge program for judges who will be 62 years of age or older at the time the judge assumes senior status. The 62-years-of-age requirement in this rule is effective January 1, 2018, but it will not apply to judges who have 20 years of service prior to the effective date of this rule.

22.12(2) A senior judge must be a resident of the State of Iowa to serve as a senior judge.

22.12(3) In order for senior judges to provide the most effective service to the judicial branch, the supreme court may assign a senior judge:

a. Within the district the judge served before taking senior status.

b. To a district other than the judge served before taking senior status.

c. To more than one district.

d. To cross district lines, when necessary.

e. To conduct court-sanctioned alternative dispute resolution.

f. To the state court administrator to perform non-adjudicative duties such as working on special projects involving technology or education, mentoring other judges, or assisting the supreme court in its administrative or rule-making functions.

g. To the court of appeals to assist it in its adjudicative duties.

h. To serve in the capacity of an administrative law judge pursuant to Iowa Code section 602.9206.

i. To any other duties the supreme court may approve.

22.12(4) Prior to submitting an application to become a senior judge, the judge, the chief judge of the district, the district court administrator, and the state court administrator may meet and discuss the judge's potential assignment together with the scope and parameters of the senior judge's service. If

the judge decides to apply for senior status, the judge can request the supreme court to give that judge a preliminary determination as to whether the supreme court will approve the judge's application.

22.12(5) The supreme court, in ruling on an application for senior status, including reappointment of an applicant to an additional term, may consider the following factors:

a. The applicant's demonstration of a willingness and ability to undertake and complete all assigned work during the applicant's service as a judge or a senior judge.

b. The recommendation of the chief judge and court administrator made in consultation with other judges from the district, in the district where the judge has served.

c. The result of the most recent Iowa State Bar Association judicial performance evaluation.

d. The applicant's monthly rule 22.10 reports.

e. The applicant's agreement to perform duties as scheduled and assigned by the chief judge of the district, by an appellate court where the senior judge is assigned, or by the state court administrator.

f. The applicant's plans, if any, to regularly spend time or reside out-of-state.

g. The applicant's work or plans to work as a mediator, arbitrator, or provider of other alternative dispute resolution services.

22.12(6) A person who files an election to become a senior judge any time after the date of retirement, pursuant to Iowa Code section 602.9203, shall file written evidence with the clerk of the supreme court that the person has not engaged in the practice of law between the person's date of retirement and date of senior judge election.

22.12(7) An applicant for appointment to become a senior judge or a senior judge who applies for reappointment to an additional term shall provide evidence to the satisfaction of the supreme court that the applicant or senior judge does not suffer from a physical or mental disability or an illness that would substantially interfere with the performance of duties agreed to under this rule. Evidence shall include:

a. A statement of ability to serve by the applicant and a written opinion of a doctor of medicine or doctor of osteopathic medicine and surgery.

b. Prior to or following appointment or reappointment, a judge or senior judge must provide the court with additional information about the senior judge's physical and mental health and authorization for the release of medical information upon request.

22.12(8) A senior judge may only serve for a total period of six years. In any event, a senior judge shall cease holding office when the senior judge reaches 78 years of age. To be eligible for consideration, a senior judge must file an application for reappointment within 30 days prior to the expiration of the senior judge's term. The six-year-term-of-service limitation is effective January 1, 2018, but it will not apply to judges who have 20 years of service prior to January 1, 2018.

22.12(9) At the end of each calendar quarter, a senior judge shall file a report with the clerk of the supreme court indicating the dates on which the senior judge performed judicial or other assigned duties and the nature of the duties performed or the name of the cases over which the judge presided on each date of service. A senior judge assigned to a judicial district shall provide a copy of the report to the chief judge and the district court administrator. A senior judge assigned to an appellate court shall provide a copy of the report to the chief judge of the court of appeals or the chief justice, whichever is appropriate, and to the state court administrator. For purposes of this rule, a calendar quarter is a three-month period in the one-year period that commences on the date a retired judge becomes a senior judge and continues for each successive one-year period while the judge continues to be a senior judge.

22.12(10) Senior judges and applicants for appointment and reappointment to the senior judge program must provide information and reports required by this section on forms approved by the supreme court. The court administrator may require a senior judge to submit a statement of ability to serve by the senior judge and a written opinion of a doctor of medicine or doctor of osteopathic medicine and surgery.

22.12(11) The following rules shall apply to senior judges, retired judges assigned to temporary judicial duties pursuant to Iowa Code section 602.1612, and retired senior judges assigned to temporary judicial duties pursuant to section 602.1612 who wish to engage in mediation, arbitration, or other forms of alternate dispute resolution:

a. A judge covered by this rule shall not act as an arbitrator, mediator, or provider of other forms of alternate dispute resolution while assigned to judicial service or when such action will interfere with an assignment to judicial service. A judge covered by this rule shall not use the title "senior judge" or the title "judge" in any form while acting as an arbitrator or mediator.

b. A senior judge shall disclose to the parties if the senior judge has mediated a dispute involving any party or any party's insurer, lawyer, or law firm involved in a case before the senior judge, and any negotiations or agreements for the provision of mediation services between the senior judge and any party or any party's insurer, lawyer, or law firm to a case before the senior judge. A senior judge shall not preside over any case involving a party or a party's insurer, lawyer, or law firm that is using or negotiating to use the senior judge as a mediator, or has used or agreed to use the senior judge as a mediator in the past two years. A senior judge shall not serve as a mediator in any case in which the judge is currently presiding. A senior judge shall not mediate any dispute that is filed in or could be venued or filed in the judicial district or appellate court in which the judge serves. These restrictions cannot be waived by consent of the parties or lawyers. For purposes of this section, mediation includes arbitration and other forms of alternate dispute resolution.

c. At the end of each calendar quarter, a senior judge who has engaged in private mediation or dispute resolution activities during the quarter shall file a report with the clerk of the supreme court. The senior judge shall report the date or time period when the mediation occurred, the county where the mediation occurred, the county in which the dispute arose, the names of the parties, and the names of the lawyers and insurers, if any, involved in the mediation. A senior judge assigned to a judicial district shall provide a copy of the report to the chief judge and to the district court administrator. A senior judge assigned to an appellate court shall provide a copy of the report to the chief judge of the court of appeals or the chief justice, whichever is appropriate, and to the state court administrator. For purposes of this rule, a calendar quarter is a three-month period in the one-year period that commences on the date a retired judge becomes a senior judge and continues for each successive one-year period while the judge continues to be a senior judge.

[Court Order December 17, 1996, effective January 2, 1997; November 9, 2001, effective February 15, 2002; February 27, 2008; October 31, 2008, effective January 1, 2009; April 30, 2010, effective May 3, 2010; November 18, 2016, effective March 1, 2017]

Rule 22.13 Service by retired judges. No retired judge or retired senior judge shall be eligible for temporary service under the provisions of Iowa Code section 602.1612 after reaching the age of 78.

[Court Order September 30, 1987; November 9, 2001, effective February 15, 2002]

Rule 22.14 Judicial vacation.

22.14(1) Supreme court justices, court of appeals judges, district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges are entitled to 22 working days of vacation per calendar year. After 15 years of service with the judicial branch, supreme court justices, court of appeals judges, district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges are entitled to 27 working days of vacation per calendar year.

Vacation schedules of district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges shall be coordinated through the office of the chief judge of the district. The chief judge shall cause a record to be kept of the amount of vacation taken by each judicial officer in the district. The number of vacation days shall be prorated during the calendar years a judicial officer begins and separates from judicial service.

No more than 27 working days of accrued, unused vacation from a prior year may be carried into a calendar year. Separation from judicial office shall cancel all unused vacation time. No compensation shall be granted for unused vacation time remaining at the time of separation.

22.14(2) Schedules for judicial magistrates should be arranged by the chief judge of each district to accommodate a reasonable vacation period; however, a judicial magistrate shall not be entitled to any specific vacation days for which compensation may be granted, nor may compensation be granted for days not taken prior to separation from judicial service.

[Court Order May 20, 1980; May 23, 1985, effective August 1, 1985; September 18, 1992, effective January 2, 1993; July 26, 1996; November 9, 2001, effective February 15, 2002; August 29, 2002; November 22, 2004, effective January 1, 2005]

Rule 22.15 Quasi-judicial business.

22.15(1) Each supreme court justice, court of appeals judge, district judge, district associate judge, full-time associate juvenile judge, and full-time associate probate judge may take up to ten working days per calendar year for the purpose of quasi-judicial business. This right is subject to the ability of the chief judge of each district to make necessary scheduling adjustments to accommodate requests.

The ten days shall be prorated during the calendar years a judicial officer begins and separates from judicial service. The chief justice of the supreme court may authorize exceptions to this rule.

22.15(2) "Quasi-judicial business" includes teaching, speaking, attending related educational programs, courses or seminars, and those duties specified in rule 22.16(5)(*b*)(8) and rule 22.16(5)(*b*)(13) but does not include time spent on other "official duties" enumerated in rule 22.16(5)(*b*), or teaching judicial branch educational programs when prior approval is obtained from the chief judge of the appropriate judicial district and chief justice of the supreme court.

[Court Order May 20, 1980; May 23, 1985, effective August 1, 1985; June 28, 1985, effective July 1, 1985; October 24, 1985, effective November 1, 1985; July 26, 1996; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.16 Preaudit travel claims of judiciary — definitions. As used in this rule and rules 22.17 through 22.21:

22.16(1) *"Court employee"* or *"employee of the judicial branch"* means an officer or employee of the judicial branch except for a judicial officer or a court reporter.

22.16(2) *"Court reporter"* means every full-time or temporary court reporter compensated by the judicial branch pursuant to Iowa Code section 602.1502.

22.16(3) *"Judicial officer"* means every justice, judge, district associate judge, senior judge, associate juvenile judge, associate probate judge, judicial hospitalization referee, and magistrate, appointed to serve in the state of Iowa.

22.16(4) *Official domicile.*

a. "Court employee's official domicile" means the work location to which that court employee is assigned. Transportation costs between any such employee's permanent home and that employee's official domicile are not reimbursable.

b. "Judicial officer and court reporter's official domicile." By December 15 of each year, the chief judge of the judicial district and the district court administrator shall designate a courthouse as an official domicile for each judicial officer and court reporter. The official domicile of a judicial officer and a court reporter shall be the courthouse in the county in which the judicial officer or court reporter resides unless the chief judge of the judicial district and the district court administrator agree to another location based on factors such as the percent of time spent working at another courthouse, court scheduling, or any other factor that should influence the selection of the domicile. Court reporters may reside outside of the judicial district in which they serve. If a court reporter resides outside of the judicial district in which the court reporter serves, the chief judge of the judicial district and the district court administrator shall designate the court reporter's official domicile in a county adjacent to the judicial district in which the court reporter resides. If there is a change in any of the factors that affect the court reporter's domicile location during the fiscal year, the chief judge of the judicial district and the district court administrator may change the court reporter's official domicile. Notification of official domicile must be filed by the district court administrator with the state court administrator's office by December 15 of each year.

22.16(5) *"Official duties"* means the following:

a. "Official duties" of a court reporter or court employee are the responsibilities and functions contained in the judicial branch job description for the position the individual holds.

b. "Official duties" of a judicial officer are the responsibilities and functions customarily and usually pertaining to the office of judge or referee. Subject to Iowa Code section 602.1509, and this rule and rules 22.17 through 22.21, official duties include the following:

(1) Attendance at court sittings and performance of the other work of the court.

(2) Attendance at judicial conferences called under Iowa Code section 602.1203.

(3) Attendance by district judges, district associate judges, associate juvenile judges, associate probate judges, and judicial magistrates at district judicial conferences called by chief judges of the district court.

(4) Attendance to give testimony before committees of the general assembly, at the committees' request.

(5) Attendance at meetings of judicial nominating commissions as the judicial member of the commission.

(6) Performance of functions as a member of committees or commissions appointed by the supreme court, the chief justice, or a chief judge of the district court on court procedure, administration, or structure.

(7) Attendance at meetings when designated by the chief justice to represent the judicial branch.

(8) If approved in advance by the chief justice: attendance to serve as judge at moot court proceedings for Iowa Law School and Drake Law School not to exceed one attendance per calendar year by any one attending judge; attendance at legal or judicial educational and training sessions and courses outside the state; and attendance at meetings of national associations of chief justices, appellate court justices and judges, trial court judges, and judicial officers of limited jurisdiction.

(9) Performance by chief judges of the district court of their administrative functions.

(10) Attendance by members of the judicial council at meetings of the council and of its committees.

(11) Performance by liaison justices of their functions as such within their assigned judicial districts.

(12) Attendance by district associate judges and judicial magistrates at the Iowa judicial magistrates schools of instruction and traffic court conferences.

(13) Performance of functions for which reimbursement of travel expense is authorized by any other Iowa statute or rule of the supreme court.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002; Supervisory Order August 10, 2004; Court Order August 31, 2020, effective September 1, 2020]

Rule 22.17 Reimbursable travel.

22.17(1) *In-state.*

a. Expenses incurred for in-state travel outside the judicial district, except expenses incurred by juvenile court officers in the discharge of their official duties, are not reimbursable unless prior approval for the travel has been given by the chief justice or the chief justice's designee on a prescribed form. In-state travel for juvenile court officers shall include travel within a 100-mile radius outside the borders of the state of Iowa. Expenses incurred for in-state travel outside the judicial district by juvenile court officers in the discharge of their official duties are not reimbursable unless approval for the travel has been given by the chief juvenile court officer of the judicial district.

b. Reimbursement under this chapter for in-state travel expenses incurred by juvenile court officers in the discharge of their official duties shall be provided from funds administered by the judicial branch or pursuant to Iowa Code section 232.141, as applicable.

22.17(2) *Out-of-state.*

a. Requests to attend conferences, meetings, training courses, programs, and similar gatherings which require out-of-state travel shall be submitted to the chief justice or the chief justice's designee on a prescribed form at least two weeks prior to the proposed departure date. No reimbursement of out-of-state expenses shall be made unless the trip has received prior approval of the chief justice or the chief justice's designee except as otherwise provided in this rule.

b. Reimbursement for expenses incurred for out-of-state travel by juvenile court officers in the discharge of their official duties relating to court-ordered transportation and placement shall be allowed if oral or written approval is given by the chief juvenile court officer of the judicial district and the chief justice or the chief justice's designee at any time prior to the proposed departure.

c. Reimbursement under this chapter for out-of-state travel expenses incurred by juvenile court officers in the discharge of their official duties shall be provided from funds administered by the judicial branch or pursuant to Iowa Code section 232.141, as applicable.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.18 Transportation.

22.18(1) *Route and conveyance.* Transportation shall be by the usually traveled route. Mileage shall be based on mileage published by the department of transportation. Reimbursement shall be limited to the most economical means of conveyance available.

22.18(2) *Mileage — personal car.* Judicial officers and court employees shall be reimbursed their mileage expense when required in the discharge of official duties to travel outside their official domicile. Reimbursement shall be for the miles driven from the official domicile or employee's residence, whichever is less, to the work location. In no instance shall employees and judicial officers be reimbursed for more than actual miles driven. Carpooling is recommended whenever possible. The allowance for use of a private automobile on official judicial branch business shall be established by order of the supreme court and shall be presumed to include all automobile expenses. Additionally, judicial officers and court employees shall be reimbursed their mileage expense for travel required in the discharge of official duties within the continuous metropolitan area of their

official domicile. Travel directly between employees' and judicial officers' residences and their official domiciles will not be reimbursed.

22.18(3) *Transportation other than private automobile.* Expenses for transportation other than private automobile are reimbursed on an actual incurred cost basis and must be claimed accompanied by an original receipt.

22.18(4) *Reimbursement of parking.* Reimbursement for parking expense is allowable when mileage is claimed. Receipts for parking, taxi and/or other transportation expenses, are not required when the total amount, per day, does not exceed $15. Receipts must be attached to the travel voucher for employees to receive reimbursement for the above expenses in excess of $15 per day.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002; Supervisory Order August 10, 2004; Court Order August 31, 2020, effective September 1, 2020]

Rule 22.19 Lodging.

22.19(1) *In-state.*

a. Lodging expense is reimbursed as incurred when a judicial officer, court reporter, or court employee is required, in the discharge of official duties, to leave the county of that person's official domicile. The name of the establishment where the expense is incurred shall be indicated on the claim form and the original receipt shall be attached. The single room rate is to be noted on the receipt when other than a single room was charged. Special rates for judicial officers, court reporters, and court employees are available at many motels and hotels in the state. An identification card identifying the holder as a judicial officer, court reporter, or court employee is usually necessary. Identification cards are available upon request from the office of the state court administrator. The allowance for lodging shall be the actual cost, but not exceeding $80, plus applicable taxes, per day.

b. Judicial officers and court employees are to seek lodging facilities whose rates are within those prescribed in this rule or a reasonable explanation must be noted in the expense claim in order to be considered for reimbursement over the defined maximum rates. (*See* rule 22.21(6)). When seeking overnight lodging judicial officers and court employees should request the lowest of "state," "government," or "commercial" rates, as many facilities offer these "special" rates which a state employee can and should obtain.

22.19(2) *Out-of-state.* Lodging expense is not limited outside the state, but the incurred expenditures are to be reasonable. Lodging for approved out-of-state travel shall be reimbursed for the night preceding and the night of the ending date of the authorized meeting.

[Court Order November 9, 2001, effective February 15, 2002; June 16, 2006, effective July 1, 2006; January 4, 2012; July 19, 2021, effective August 1, 2021]

Rule 22.20 Meals.

22.20(1) *In-state.* Incurred meal expense shall be reimbursed at "reasonable and necessary" cost when a judicial officer, court reporter, or court employee is required, in the discharge of official duties, to leave the county of that person's official domicile. A maximum of $37 per day may be reimbursed for meals, as outlined below; however, if departure from the official domicile is before 6 a.m., a notation must be included on the Travel Voucher. At the return of the trip, if arrival back at the official domicile is after 7 p.m., a notation to this effect must be included on the Travel Voucher. Meal allowance for travel will be as follows:

a. Departure before 6 a.m. and return to official domicile after 7 p.m. may be reimbursed the actual cost for breakfast, lunch, and dinner up to a maximum of $37.

b. Departure before 6 a.m. and return to official domicile before 7 p.m. may be reimbursed the actual cost for breakfast and lunch up to a maximum of $18.

c. Departure after 6 a.m. and return to official domicile after 7 p.m. may be reimbursed the actual cost for lunch and dinner up to a maximum of $29.

d. Departure after 6 a.m. and return to official domicile before 7 p.m. may be reimbursed the actual cost for lunch up to a maximum of $10.

22.20(2) *Out-of-state.* Meal expenses are not limited out-of-state, but the incurred expenses are to be reasonable. When in travel status, lunch and dinner the day preceding the meeting, and breakfast and lunch the day after a meeting, are reimbursable expenditures.

22.20(3) *Overnight lodging required.* The provisions for meal reimbursement in rules 22.20(1) and 22.20(2) apply only when the travel includes overnight lodging.

[Court Order November 9, 2001, effective February 15, 2002, May 8, 2006; July 18, 2007, effective August 1, 2007; February 21, 2019, effective March 1, 2019]

Rule 22.21 Miscellaneous travel provisions.

22.21(1) *Continuing education expenses.* Provisions relating to "Official duties," "Travel," "Transportation," "Lodging" and "Meals" as used in rules 22.16 through 22.21 shall not be applicable to expenses for continuing education requirements for court reporters or court employees, unless otherwise ordered by the chief justice or the chief justice's designee.

22.21(2) *Examining Board expenses.* Board of Law Examiners and Shorthand Reporters Examiners will be reimbursed actual and necessary expenses not to exceed one and one-half times the reimbursement allowances provided in rules 22.19 and 22.20.

22.21(3) *Living outside official domicile.* When additional expense is incurred by reason of a court employee maintaining a permanent home in a city, town, or metropolitan area other than that person's official domicile, unless otherwise determined by the state court administrator, the additional expense is not reimbursable.

22.21(4) *Registration fees.* Registration fees for authorized meetings and conferences are an allowable expense when accompanied by receipt.

22.21(5) *Claim preparation.*

a. All claims shall be typewritten, or printed in ink, and signed by the claimant. Receipts for lodging, public transportation, and any authorized miscellaneous expenses shall be attached to the upper left-hand corner of the form. Claim for reimbursement for out-of-state travel shall be submitted for payment upon completion of the trip.

b. Beginning March 1, 2019, any request for reimbursement of travel expenses must be submitted within 60 days of completion of travel.

c. If reimbursement is sought pursuant to Iowa Code section 232.141, the district court administrator shall process the claim per rules and procedures of the applicable county and the department of human services.

22.21(6) *Exceptions.* The chief justice or the chief justice's designee may grant exceptions to rules 22.16 through 22.21 as necessitated by unusual circumstances.

22.21(7) *Refreshments.* The cost of refreshments served at meetings will not be reimbursed, except for educational programs sponsored and authorized by the chief justice or the chief justice's designee.

22.21(8) *Form.* A written request for travel authority from the chief justice or the chief justice's designee pursuant to rules 22.16 through 22.21 shall be in substantially the following form:

JUDICIAL BRANCH
REQUEST FOR TRAVEL AUTHORITY

_____ Outside of Iowa
_____ In-state, out of Judicial District

Date _____

Name _____
Title _____
Judicial District _____

Form to be submitted to Chief Justice of the Supreme Court or the Chief Justice's designee prior to proposed departure date. See rules 22.16 to 22.21 for applicable travel and time for submission.

DEPARTURE FROM:

DESTINATION:

TRAVEL DATES (ROUND TRIP):

MODE OF TRAVEL:

PURPOSE OF TRAVEL: (INCLUDE NATURE AND DATES OF MEETING OR OTHER PURPOSE OF TRAVEL AND JUSTIFICATION FOR PROFESSIONAL PURPOSES)

ESTIMATED COST:
Transportation:
Lodging:
Meals:
Other (Please Specify):
Total:

Anticipated Funding Source(s):

Approved as to form:

_____
District Court Administrator
(initials)

_____
Person requesting approval

_____
Supervising authority (when applicable)

Request Approved/Denied:

_____
Chief Judge Date

Request Approved/Denied:

_____
Chief Justice Date
Supreme Court of Iowa
(or Chief Justice's designee)

[Court Order June 11, 1981; November 30, 1981 (Received for publication January 5, 1983); June 28, 1984; June 28, 1985, effective July 1, 1985; October 3, 1985, effective October 15, 1985; May 15, 1986, effective July 1, 1986; November 20, 1986, effective December 1, 1986; July 21, 1988, effective August 1, 1988; October 12, 1989, effective November 1, 1989; November 13, 1990, effective January 2, 1991; January 17, 1991; July 12, 1991, effective July 12, 1991, for expenses on or after January 2, 1991; December 16, 1994, effective December 16, 1994; December 16, 1994, effective January 2, 1995; January 3, 1996; March 21, 1996; July 26, 1996; November 5, 1996; December 21, 1999, effective January 1, 2000; May 26, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 21, 2019, effective March 1, 2019]

Rule 22.22 Gifts.

22.22(1) Judicial officers are not subject to the provisions of this rule, but shall be subject to the gift provisions of the Iowa Code of Judicial Conduct.

22.22(2) Except as otherwise provided in this rule, an employee of the judicial branch or a member of that person's immediate family shall not, directly or indirectly, accept, receive or solicit any gift or series of gifts.

22.22(3) As used in this rule:

a. "Employee" means any employee of the judicial branch other than a judicial officer subject to the gift provisions of the Iowa Code of Judicial Conduct.

b. "Gift" means a rendering of anything of value in return for which legal consideration of equal or greater value is not given or received, if the donor is:

(1) A party or other person involved in a case pending before the donee.

(2) A party or a person seeking to be a party to any sale, purchase, lease or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, purchase, lease or contract, or if the donee assists or advises the person with authority to approve the sale, purchase, lease or contract.

(3) A person who will be directly or substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

c. "Gift" does not include:

(1) Informational material relevant to the employee's duties, such as books, pamphlets, reports, documents or periodicals, or the cost of registration for an education conference or seminar which is relevant to the employee's duties.

(2) Anything received from a person related within the fourth degree of kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

(3) An inheritance or bequest.

(4) Anything available or distributed to the public generally without regard to the official status of the recipient.

(5) Actual expenses of a donee for food, beverages, travel, and lodging, which is given in return for participation at a meeting as a speaker, panel member or facilitator, when the expenses relate directly to the day or days on which the donee participates at the meeting, including necessary travel time.

(6) Plaques or items of negligible resale value given as recognition for public service.

(7) Nonmonetary items with a value of $3 or less that are received from any one donor during one calendar day.

(8) Items or services solicited by or given to a state, national or regional organization in which the state of Iowa or a political subdivision of the state is a member.

(9) Items or services received as part of a regularly scheduled event that is part of a conference, seminar or other meeting that is sponsored and directed by any state, national or regional organization in which the judicial branch is a member.

(10) Funeral flowers or memorials to a church or nonprofit organization.

(11) Gifts which are given to an employee for the employee's wedding or twenty-fifth or fiftieth wedding anniversary.

d. "Immediate family" means the spouse and minor children of an employee of the judicial branch.

22.22(4) For purposes of determining the value of an item, an individual who gives an item on behalf of more than one person shall not divide the value of the item by the number of persons on whose behalf the item is given and the value shall be the value actually received by the donee.

22.22(5) An employee of the judicial branch or the person's immediate family member, may accept a nonmonetary gift or a series of nonmonetary gifts and not be in violation of this rule if the nonmonetary gift or series of nonmonetary gifts is donated within 30 days to a public body, the state court administrator, the department of general services, or a bona fide educational or charitable organization, if no part of the net earnings of the educational or charitable organization inures to the benefit of any private stockholder or other individual.

[Court Order June 30, 1980; July 31, 1987, effective August 3, 1987; December 29, 1992, effective January 1, 1993; August 19, 1993; November 9, 2001, effective February 15, 2002; April 30, 2010, effective May 3, 2010]

Rule 22.23 Honoraria.

22.23(1) An official or employee of the judicial branch shall not seek or accept an honorarium.

22.23(2) As used in this rule:

a. "Honorarium" means anything of value that is accepted by, or on behalf of, an official or employee of the judicial branch as consideration for an appearance, speech or article if the donor is:

(1) A party or other person involved in a case pending before the donee.

(2) A party or person seeking to be a party to any sale, lease, or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, lease, or contract or if the donee assists or advises the person with authority to approve the sale, lease, or contract.

(3) A person who will be directly and substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

b. "Honorarium" does not include:

(1) Actual expenses of a donee for food, beverages, travel, lodging and registration which is given in return for participation at a meeting as a speaker, panel member or facilitator when the expenses relate directly to the day or days on which the donee participates at the meeting, including necessary travel time.

(2) Payment to an employee for services rendered as part of outside employment which has been approved pursuant to the department's personnel policies, if the payment is commensurate with the actual activity or services rendered and not based upon the employee's position within the department, but, rather, because of some special expertise or other qualification.

(3) Payment to a judge or magistrate for officiating and making return for a marriage pursuant to rule 22.29.

(4) Payment to a judge or senior judge for instruction at an accredited education institution, if the payment is commensurate with the actual activity or services rendered and not based upon the judge's official position.

(5) Payment to a part-time judge for services rendered as part of a bona fide business or profession in which the judge is engaged, if the payment is commensurate with the actual activity or services rendered and not based upon the judge's official position.

(6) Payment to a senior judge for services rendered as an arbitrator or mediator, if the payment is commensurate with the actual activity or services rendered and not based upon the senior judge's official position. [Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002]

Rule 22.24 Interests in public contracts.

22.24(1) A full-time official or employee of the judicial branch shall not sell any goods or services to any state agency.

22.24(2) As used in this rule, "services" does not include any of the following:

a. Instruction at an accredited education institution by a judge, senior judge or magistrate if permitted as a quasi-judicial or extrajudicial activity pursuant to the Code of Judicial Conduct or by an employee as part of outside employment which has been approved pursuant to the judicial branch's personnel policies.

b. The preparation of a transcript by an official court reporter.

[Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.25 Services against the state.

22.25(1) No official or employee of the judicial branch shall receive, directly or indirectly, or enter into an agreement, express or implied, for any compensation, in whatever form, for the appearance or rendition of services against the interest of the state in relation to any case, proceeding, application, or other matter before any state agency, any court of the state of Iowa, any federal court, or any federal bureau, agency, commission or department.

22.25(2) As used in this rule, "appearance or service against the interest of the state" means an appearance or service which conflicts with a person's duties or employment obligations owed to the state.

[Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002]

Rule 22.26 Personal disclosure.

22.26(1) Each official shall file a statement of personal financial disclosure in the manner provided in this rule. The disclosure must be filed even if there is no financial information to report. The disclosure must contain:

a. A list of each business, occupation, or profession (other than employment by the judicial branch) in which the person is engaged and the nature of that business, occupation, or profession, unless already apparent.

b. A list of any sources of income (other than income from employment by the judicial branch) if the source produces more than one thousand dollars annually in gross income. "Sources of income" includes those sources which are held jointly with one or more persons and which in total generate more than $1000 of income. "Jointly" means the ownership of the income source is undivided among the owners and all owners have one and the same interest in an undivided possession, each with full rights of use and enjoyment of the total income. Sources of income that are co-owned but with ownership interests that are legally divisible, without full rights of use of enjoyment of the total income, need not be reported unless the person's portion of the income from that source exceeds $1000. For purposes of this rule, income earned solely by the spouse of a person subject to reporting is not income to that person and need not be reported as a source of income.

Sources of income listed pursuant to this rule may be listed under any of the following categories:

(1) Securities.
(2) Instruments of financial institutions.
(3) Trusts.
(4) Real estate.
(5) Retirement systems.
(6) Other income categories specified in state and federal income tax regulations.

22.26(2) The statement of personal financial disclosure shall be reported on forms prescribed by the state court administrator and shall be filed with the clerk of the supreme court on or by the first day of April each year or no later than 30 days after assuming office. The statement of personal financial disclosure forms shall be retained for a period of two years.

[Court Order December 29, 1992, effective January 1, 1993; Statement required April 1, 1994; November 9, 2001, effective February 15, 2002; November 22, 2004; December 22, 2022]

Rule 22.27 Definitions. As used in rules 22.22 to 22.26:

22.27(1) *"Employee"* means a paid employee of the state of Iowa, including independent contractors, and does not include a member of a board, commission, or committee.

22.27(2) *"Official"* means an officer of the judicial branch performing judicial functions, including an associate juvenile judge, a magistrate or referee, an associate probate judge, and the state court administrator, and does not include a member of a board, commission, or committee.

[Court Order December 29, 1992, effective January 1, 1993; July 26, 1996; November 9, 2001, effective February 15, 2002]

Rule 22.28 Transcripts — rates for transcribing a court reporter's official notes.

22.28(1) Pursuant to Iowa Code section 602.3202, the maximum compensation of shorthand reporters for transcribing their official notes shall be as follows:

a. Ordinary transcript (a transcript of all or part of the proceedings) - $3.50 per page for the original and one copy to the party ordering the original and 50 cents per page for each additional copy.

b. Expedited transcript (a transcript of all or part of the proceedings to be delivered within seven calendar days after receipt of an order) - $4.50 per page for the original and one copy to the party ordering the original and 75 cents per page for each additional copy.

c. Daily transcript (a transcript of all or part of the proceedings to be delivered following adjournment for the day and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day) - $5.50 per page for the original and one copy to the party ordering the original and $1.00 per page for each additional copy.

d. Unedited transcript (an unedited draft transcript produced as a byproduct of realtime or computer aided transcription software to be delivered on electronic media or paper) - $2.25 per page for the original and 25 cents per page for each copy. The unedited disk or printed draft transcript shall not be certified and may not be used to contradict the official district court transcript.

e. Realtime transcript (an unedited draft transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings for viewing and retention) -

$2.75 per page for the original and $1.00 per page for each copy. The unedited text of the proceedings shall not be certified and may not be used to contradict the official district court transcript. Litigants who order realtime services, and subsequently order an original certified transcript of the same proceeding, will not receive credit toward the purchase cost of the certified transcript. Only certified realtime reporters may be compensated for such transcripts.

22.28(2) These rates of compensation shall apply to each separate page of transcript even if they are produced in a condensed transcript format.

22.28(3) These rates of compensation shall be the same whether the transcript is produced in an electronic or paper format. A certified transcript may be sold in an electronic format only if a paper transcript is produced, certified, and filed with the clerk of court for the records of the court or delivered to the custodial attorney. No additional charge is permitted for an ASCII disk or other form of electronic media when it accompanies a paper transcript.

22.28(4) Court reporters are only required to prepare ordinary transcripts. They may, but are not required to, produce the types of transcripts described in rule 22.28(1)(*b*-*e*).

[Court Order March 15, 2007; November 9, 2009; May 27, 2010; April 4, 2012]

Rule 22.29 Marriage fees received by a judicial officer.

22.29(1) A judge or magistrate may charge a fee for officiating and making return for each marriage solemnized at a time other than regular judicial working hours and at a place other than a court facility. This fee shall not exceed the sum of $200.

22.29(2) A judge or magistrate may charge the parties to the marriage for expenses incurred in solemnizing the marriage. In no event shall the expenses charged exceed the maximum amounts set by rules 22.16 through 22.21.

22.29(3) The phrase "regular judicial working hours," for purposes of this rule, shall mean 8 a.m. to 5 p.m. Monday through Friday (except for legal holidays) for all judicial officers except magistrates, and for them the schedule fixed by the chief judge of the judicial district.

[Court Order July 1, 1983; received for publication April 2, 1984; September 17, 1984; Court Order July 7, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; March 16, 2006]

Rule 22.30 Use of signature facsimile.

22.30(1) In all instances where a law of this state requires a written signature by a justice of the supreme court, judge of the court of appeals, district judge, district associate judge, judicial magistrate, clerk of the district court, county attorney, court reporter, associate juvenile judge, associate probate judge, judicial hospitalization referee, probate referee, or law enforcement officer, any such officer may use, or direct and authorize a designee to possess and use, a facsimile signature stamp bearing that officer's signature or an electronically scanned signature of the officer pursuant to the provisions of this rule.

22.30(2) Whether used personally by the officer whose signature it bears or by a designee of that officer, a facsimile signature stamp or electronically scanned signature must contain a true facsimile of the actual signature of that officer. The stamp or electronically scanned signature shall be kept in the secure possession of the officer or that officer's designee at all times, accessible only to the officer or the officer's designee.

22.30(3) An officer directing and authorizing a designee to possess and use a facsimile signature stamp or electronically scanned signature bearing that officer's signature shall execute a written designation of the authorization. The designation shall be addressed to the designee, by name or title, and shall specifically identify each category of documents to which the designee is authorized to affix the stamp or electronically scanned signature. The original of the written designation shall be filed with the district court administrator in the judicial district within which the officer is located; appellate judges and justices shall file their original designations with the clerk of the supreme court. A copy of the written designation shall be retained by the officer and by the designee.

22.30(4) A written designation made by an officer pursuant to rule 22.30(3) may be revoked, in writing, at any time by the officer who executed it, and shall stand automatically revoked upon that officer's ceasing to hold the office for any reason. A written revocation of designation shall be addressed to the former designee, in the same manner as the original designation. A copy of the written revocation shall be retained by the officer and by the former designee. A facsimile signature stamp in the possession of a former designee shall be forthwith returned to the officer who issued it, if available, or shall be destroyed by the former designee. A revoked electronically scanned signature shall be deleted.

22.30(5) Nothing contained in this rule shall abrogate any provision of Iowa Code section 4.1(39).
[Court Order May 17, 1984; July 25, 1986, effective September 2, 1986; June 22, 1987, effective August 3, 1987; July 26, 1996; November 9, 2001, effective February 15, 2002; June 3, 2009; March 9, 2010]

Rule 22.31 Juror compensation.

22.31(1) Compensation for a juror's first seven days of attendance and service on a case shall be $30 per day, including attendance required for the purpose of being considered for service.

22.31(2) When a juror's attendance and service on a case exceed seven days, the rate of compensation shall be $50 for each day after the seventh day.

22.31(3) For purposes of juror compensation, the days of attendance and service do not have to be consecutive.
[Court Order September 25, 2006; October 22, 2007]

Rule 22.32 Magistrates — annual school of instruction. Each magistrate shall be required to attend a judicial branch school of instruction prior to taking office and annually thereafter unless excused by the chief justice for good cause. A magistrate appointed to fill a vacancy shall attend the first school of instruction that is held following the appointment, unless excused by the chief justice for good cause.
[Court Order September 23, 1985, effective October 15, 1985; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.33 Nepotism. No judicial officer or employee of the judicial branch shall appoint, or continue to employ any person related by consanguinity or affinity within the third degree. This prohibition shall apply to any employment where a direct supervisory relationship exists between the judicial officer or employee and the person supervised.

In the event an employment situation exists within the judicial branch which is consistent with Iowa Code chapter 71 but inconsistent with this rule, the supervisor shall terminate the employment relationship prior to March 15, 1986. Every effort shall be made by the judicial branch to relocate within the branch any individual who is dismissed as a result of this rule.
[Court Order January 22, 1986, effective February 3, 1986; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.34 Judicial branch appointments. It is a policy of the judicial branch that all boards, commissions, and committees to which appointments are made or confirmed by any part of the judicial branch shall reflect, as much as possible, a gender balance. If there are multiple appointing authorities for a board, commission, or committee, they shall consult with each other to avoid contravention of this policy.
[Court Order June 30, 1986, effective July 1, 1986; November 9, 2001, effective February 15, 2002]

Rule 22.35 Service copies.

22.35(1) After April 1, 1988, the clerk of court shall not make a part of the court file, or otherwise retain in the clerk's office, service copies of pleadings, orders, or writs.

22.35(2) "Service copy" means the copy of the pleading, order, or writ attached to either the return of service or the document proving service.

22.35(3) All returns of service shall specify what pleading, order, or writ was served. Returns of service of an original notice shall certify that a copy of the petition was served with the notice pursuant to Iowa R. Civ. P. 1.302.
[Court Order January 29, 1988, effective March 1, 1988; November 9, 2001, effective February 15, 2002]

Rule 22.36 Paper size and requested copies.

22.36(1) *Paper size.* All pleadings and other papers filed in the Iowa district courts and their small claims divisions shall be on 8½ inch by 11 inch size white paper of standard weight, with a margin of at least one inch at the top of each page. Exhibits attached to pleadings shall be of the same size as pleadings, reduced from their original size if necessary. Original documents, including wills, bonds, notes, foreclosed mortgages, and real estate contracts, may be filed on longer paper. Uniform Citation forms and other court forms smaller than 8½ by 11 inches shall be accepted for filing. The clerks of court shall not accept filings which do not substantially comply with this rule.

22.36(2) *Requested copies.* If counsel or any party requests file-stamped copies of pleadings or other papers to be returned by mail, an extra copy and a self-addressed, postage prepaid envelope, large enough to accommodate the copy being returned, must be included with the filing. No copy shall be returned by mail unless this rule is followed.
[Court Order May 12, 1989, effective July 3, 1989; March 20, 1991, effective July 1, 1991; November 9, 2001, effective February 15, 2002]

Rules 22.37 and **22.38** Reserved.

Rule 22.39 Staffing offices of clerks of court. The supreme court shall allocate staff to the clerk of court office in each county. The court shall take into account workload and availability of funds for state court operations. The court shall set the business hours of each office. To facilitate case processing, the court may allow each office of the clerk of court to operate without being open to the public for a portion of each day the office is open for business to enable an office to process its work without interruption.
[Court Order November 12, 2009]

Rule 22.40 Public business hours of offices of clerks of court. For purposes of Iowa Code section 4.1(34), the word "day" means the period of time defined by the public business hours of an office of the clerk of court as established by order of the supreme court. If the supreme court has by order closed an office of the clerk of court for an entire day, that day shall be treated as a holiday or a weekend. Nothing in this rule shall prevent a party from filing with the court pursuant to Iowa Rule of Civil Procedure 1.442(5).
[Court Order November 12, 2009]